

1 Inquiry No. 17

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STATE OF CALIFORNIA

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BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

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INQUIRY CONCERNING

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A JUDGE

14

No. 17

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ANSWER TO NOTICE OF FORMAL PROCEEDING
AND ACCUSATION

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1 Comes now Judge William D. Spruance, Jr. and answering the
2 Notice of Formal Proceeding and Accusation on file herein denies
3 generally and specifically the allegations of wilful misconduct
4 in office and conduct prejudicial to the administration of justice
5 that brings the judicial office into disrepute of which he is
6 accused in the last paragraph on page 1 of the Notice of Formal
7 Proceeding; and in answer to the particulars of said wilful
8 misconduct in office and conduct prejudicial to the administration
9 of justice that brings the judicial office into disrepute, referred
10 to in said paragraph, and thereafter set forth, admits, denies
11 and alleges as follows:

12 I

13 Denies generally and specifically, each and every, all and
14 singular, the allegations of the first paragraph of paragraph I
15 on page 2 of the Notice of Formal Proceeding; and in answer to
16 the particularly described conduct in support of said paragraph:

17 A

18 Denies generally and specifically, each and every, all and
19 singular, the allegations of paragraphs A, B, C and D on page 2
20 of said Notice;

21 B

22 Answering paragraph E of said particularly described
23 conduct, commencing on page 2 of said Notice, denies generally
24 and specifically, each and every, all and singular, the allegations
25 therein contained save and except the allegation that "witness
26 fees" were improperly levied against the attorney named;

1 further answering said paragraph E, admits that "witness fees"
2 were levied but denies that the levy constituted wilful miscon-
3 duct in office or conduct prejudicial to the administration of
4 justice that brings the judicial office into disrepute.

5 C

6 Answering paragraph F of said particularly described conduct,
7 on page 3 of said Notice, admits that the Deputy District Attorney
8 mentioned was placed under restraint, denies that said Deputy
9 District Attorney was demeaned by this answering Judge under
10 the surrounding circumstances and further denies that the
11 restraint was without proper cause; further answering said para-
12 graph F, denies that the restraint alleged constituted wilful
13 misconduct in office or conduct prejudicial to the administration
14 of justice that brings the judicial office into disrepute.

15 D

16 Answering paragraph G of said particularly described conduct,
17 on page 3 of said Notice, admits referring to the Deputy District
18 Attorney as "Judge Hardin" but denies that said Deputy District
19 Attorney was demeaned by this answering Judge under the surround-
20 ing circumstances and further denies that this answering Judge
21 required said Deputy District Attorney to rule on all matters
22 submitted to him on the day set forth or on any matters or at all.

23 E

24 Answering paragraph H of said particularly described conduct,
25 on page 3 of said Notice, this answering Judge has no information
26 or belief as to the allegations therein contained sufficient to

1 enable him to answer the same and placing his denial on that
2 ground denies generally and specifically the allegations therein
3 contained.

4 F

5 Answering paragraph I of said particularly described conduct,
6 commencing on page 3 of said Notice, admits stating to the proba-
7 tion officer therein mentioned that her recommendation concerning
8 a defendant awaiting sentence was too lenient; further answering
9 said paragraph, denies demeaning her or causing her embarrassment
10 by accusing her of having an affair with the defendant.

11 G

12 Answering the concluding paragraph of I, the first paragraph
13 on page 4, this answering Judge denies generally and specifically
14 he engaged in conduct preventing his court from being conducted
15 in an atmosphere of fairness and impartiality or with the dignity
16 and decorum the public has a right to expect.

17 II

18 A

19 Answering paragraph A of II on page 4, denies that "on a
20 number of occasions" he "approached" Deputy District Attorney
21 William Cosden, as alleged in the first sentence of said para-
22 graph, but in this connection admits that on one or possibly two
23 occasions after the case had been tried in another court resulting
24 in a "hung jury" he discussed the Alchian case with said Deputy
25 District Attorney; further answering said first sentence denies
26 that his purpose was to secure an adjudication favorable to the

1 defendant, but in this connection admits that the adjudication
2 discussed would have been favorable to the defendant; denies that
3 on these occasions, or on any occasion, or at all, he attempted
4 to coerce said Deputy Cosden, by stating that if he intended to
5 enter the private practice of law in the Hayward area, it would
6 be judicious of him to dispose of the case in a manner suggested
7 by this answering Judge, or by any other statement, conduct or
8 means; further answering said paragraph A, this answering Judge
9 denies that he accused said Deputy Cosden in open court of
10 discrimination against the defendant; answering the last sentence
11 of said paragraph A, denies generally and specifically that he
12 verbally attacked said deputy in open court or in chambers;
13 further answering said paragraph A denies that his conduct or
14 actions with respect to Deputy Cosden constituted wilful miscon-
15 duct in office or conduct prejudicial to the administration of
16 justice that brings the judicial office into disrepute.

17 B

18 Denies the allegations of paragraph B of II on page 4, but
19 in this connection admits that after a mistrial was declared
20 in the Alchian case, he discussed said case with George Nicholson,
21 that said conversation concerned the advisability of a re-trial
22 but did not include a request for a dismissal; further answering
23 said paragraph B denies that his conduct or actions with respect
24 to George Nicholson constituted wilful misconduct in office or
25 conduct prejudicial to the administration of justice that brings
26 the judicial office into disrepute.

C

Denies generally and specifically, each and every, all and singular, the allegations of paragraph C of II commencing on page 4, save and except the allegations that the District Attorney's refusal to accept a negotiated plea had placed this answering Judge "in a box" and that said Judge would have to do something he did not wish to do; further answering said paragraph C, admits the latter remark and in this connection alleges that the meaning thereof was that because the Judge felt he would have to suppress the evidence as a matter of law, he was placed in the predicament of having to find the defendant not guilty and losing jurisdiction and control of a guilty defendant, because of technical grounds, something he did not wish, but felt obliged to do, as against retaining jurisdiction and control of the defendant which would result from the acceptance of a negotiated plea.

D

Answering the first sentence of paragraph D of II on page 4, denies harassing Deputy District Attorney Behrendt and further denies that said alleged harrassment was in retaliation for an appeal taken from the ruling in People vs. Peluso or in retaliation for anything whatsoever or at all; and further answering said first sentence denies the conviction of William Peluso was dismissed as alleged or at all; Answering the second sentence of said paragraph D admits he was one of a great many hosts at a cocktail party for a retiring Judge which was held at a restaurant belonging to the defendant William Peluso's father, but denies

1 that there is any connection whatsoever between the trial of the
2 defendant and the fact that the cocktail party was held at the
3 restaurant of the defendant's father; further answering said second
4 sentence, alleges that this answering Judge was not the person
5 who selected Peluso's Blue Dolphin as the place to hold the
6 cocktail party.

7 E

8 Answering the first sentence of Paragraph E of the Notice
9 and Accusation, denies that he caused Ralph Noren Lienes to appear
10 before him in Hayward as alleged, but admits that said defendant
11 did appear before him in Hayward although said defendant was cited
12 to appear in a San Leandro Court and in this connection this
13 answering Judge alleges that he was of the belief that he was the
14 sole traffic judge for the San Leandro-Hayward Judicial District,
15 that the matter came to him while sitting in Hayward as a citation
16 matter and that he had no knowledge that a formal complaint had
17 been issued requiring appearance in the San Leandro Court, and
18 that he handled this case routinely; answering the second sentence
19 of said paragraph E, admits that he reduced the charge to a viola-
20 tion of §22502 of the Vehicle Code and further alleges that this
21 was a customary procedure in like cases where the speed alleged
22 was within the posted speed limit; further answering said second
23 sentence alleges that he has no information or belief as to
24 whether he gave notice to the District Attorney or whether the
25 District Attorney appeared at the time he reduced the charge, and
26 basing his denial on a lack of information and belief, denies

1 said allegation; denies that his action was in violation of
2 the California Rules of Court, Rule 533(a)(2) and an unauthorized
3 assumption of jurisdiction, and in this connection alleges that
4 to the best of his knowledge and belief, he was the sole traffic
5 judge in the San Leandro-Hayward Judicial District.

6 F

7 Answering the first sentence of paragraph F, admits that he
8 asked that the file in the case set forth be brought to his
9 court and in this connection alleges that he did so because he
10 was informed and believed that the defendant had not yet been
11 arrested although a complaint had been filed and because he had
12 been asked to release the defendant on his own recognizance, and
13 because at this time, this answering Judge further believed that
14 he had jurisdiction to release any defendant in any case within
15 the San Leandro-Hayward Judicial District on request, on bail,
16 or on the defendant's own recognizance, and further in this con-
17 nection further alleges that in fact he did know the uncle of the
18 defendant, that said uncle came to the courthouse as this answering
19 Judge was leaving and stated that the defendant had been asked to
20 come to the police department to voluntarily surrender himself
21 and had been told that if he did so, he would be taken to the
22 San Leandro Court and might be released on his own recognizance,
23 whereupon this answering Judge knowing the integrity of the
24 family of the defendant, particularly the uncle of the defendant,
25 advised said uncle to voluntarily surrender his nephew in court
26 in the morning so that he would not be incarcerated and immediately

1 thereafter, the clerk of the Municipal Court being present, asked
2 said clerk if he would get the file so that the defendant could be
3 arraigned on his surrender the following morning; further
4 answering said first sentence alleges that at the time of the con-
5 versation with the uncle of the defendant, this answering Judge
6 advised him that he would have to disqualify himself from handling
7 the case because of his long friendship with the uncle. Answering
8 the second sentence of said paragraph F, admits that on the fol-
9 lowing morning said defendant was released on his own recognizance
10 after being arraigned, advised of his constitutional rights,
11 warned not to bother the complaining witness, and the matter
12 thereupon being continued to August 28, 1972 at which time the
13 defendant appeared before another judge; further answering said
14 second sentence, this answering Judge alleges that he did not
15 equate the traffic violation on which the defendant had appeared
16 before him with the type of case in which he was appearing, and
17 further alleges that he did not recognize the defendant as the
18 person who had appeared on the traffic violation. Answering the
19 third sentence of paragraph F, admits that Deputy District Attorney
20 George Nicholson spoke with him by telephone about his conduct
21 and denies that he at any time stated that what he did was done
22 as a favor to the defendant's uncle because of help in the election.
23 Answering the last sentence of said paragraph F, admits he retorted
24 with an obscenity but denies that the language used was because
25 Deputy Nicholson suggested his conduct was improper and in this
26 connection alleges that Deputy Nicholson did, in fact, suggest his

1 conduct was improper but that such suggestion was only one of the
2 many things said by Deputy Nicholson which provoked said obscenity.

3 G

4 Answering paragraph G of said Notice, admits that prior to
5 receiving the testimony of police Officer Kinsella, he did in
6 fact talk with him, that said conversation was audible but not
7 particularly loud and denies that such conversation could or
8 would awaken the suspicion in a reasonable person that his friend-
9 ship with Officer Kinsella could or would or may or might have
10 influenced his finding of guilt in the case set forth; further
11 answering said paragraph G alleges that the conversation was
12 neither lengthy nor did it in fact influence the finding of guilt
13 in Mr. Black's case; further answering said paragraph G denies
14 that the conversation with Officer Kinsella or the conduct of
15 this answering Judge in the courtroom at the time constituted
16 wilful misconduct in office or conduct prejudicial to the
17 administration of justice that brings the judicial office into
18 disrepute.

19 Answering the concluding allegation commencing on page 6
20 and ending at the top of page 7, denies that this answering Judge's
21 conduct with respect to any matter set forth in paragraphs A
22 through G was an improper interference with, or detrimental to,
23 the administration of justice or that his behavior left the impres-
24 sion that he could be improperly influenced or indicated that his
25 business relations and friendships improperly influenced his
26 judicial conduct.

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III

Answering paragraph III admits the allegations commencing with the words "on or about" on line 1 of said paragraph and concluding with the words "dismissed that citation" on line 5 of said paragraph; denies altering the reported disposition as alleged but admits amending it in the presence of said other Judge; denies inserting a reference that the matter had been dismissed upon completion of all sessions of traffic school and in this connection alleges that said amendment was intended to indicate and did indicate that the dismissal would be effective on completion of all sessions of traffic school; further answering paragraph III admits that he had not attended any sessions of traffic school between the receipt of said citation and the date of the amendment of same which was the same day; further answering said paragraph alleges that he had in fact attended sessions of traffic school when not required to do so and at the time felt he was not taking advantage of the other Judge in asking for a dismissal in that it was customary practice in the Hayward Court to dismiss similar violations upon attendance at traffic school.

IV

Answering paragraph IV denies that he "attempted to induce" Zolo M. White to execute a statement in his behalf to be submitted to the Commission of Judicial Qualifications, but in this connection admits that he asked her if she would be a witness on his behalf if needed; denies generally and specifically that upon her refusal to execute a favorable statement, he threatened to

1 publicly disgrace her or disgrace her at all, or that he threatened
2 to embarrass her should she be a witness against her before that
3 body, or to embarrass her at all; further answering this allegation
4 alleges that there was no conversation about executing a favorable
5 statement at all, or about embarrassing her in the event she should
6 be a witness against him before that body, but that the only
7 request was to be a witness on behalf of this answering Judge.

8 V

9 Admits the allegations of paragraph V, save and except that
10 in some of the cases in which attorney Julio Juarez was appointed
11 inquiry was made to determine whether such defendants were entitled
12 to counsel at public expense or whether the public defender could
13 represent them because said defendants were Spanish speaking;
14 further answering said paragraph V, this answering Judge alleges
15 that for many months after his election as Judge, his cases were
16 in the traffic department exclusively and there being no need for
17 the appointment of attorneys in traffic school, he did not make
18 up a list of attorneys to be assigned cases in rotation; further
19 answering said paragraph, alleges that the appointment of attorney
20 Winkler was in many instances made because he was in the courtroom
21 and available when needed; further answering said paragraph, alleges
22 that his appointment of attorneys to represent Spanish speaking
23 defendants was known to and agreed upon by the public defenders
24 in the Judge's courtroom, whether rightly or wrongly; further
25 answering said paragraph V, alleges that at no time did this
26 answering Judge consciously or intentionally favor either attorney

1 Winkler or attorney Julio Juarez, that the appointments to these
2 attorneys and the failure to make up a rotation list of
3 attorneys, which the Judge now has, was the result of inexperience
4 and not thinking the matter through sufficiently and a desire to
5 successfully protect the rights of the defendants appearing
6 before him, rather than a wilful misconduct in office or conduct
7 prejudicial to the administration of justice that brings the
8 judicial office into derepute.

9 WHEREFORE, this answering Judge respectfully prays that
10 the Notice of Proceeding and Accusation against him be dismissed.

11 Dated: August 25, 1973.

12 MINTZ, GILLER, HIMMELMAN & MINTZ
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15 By: /s/ Herman W. Mintz
16 Herman W. Mintz
17 Attorneys for Judge William D.
18 Spruance, Jr.
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I, William D. Spruance, Jr., declare:

I am the answering party in the above-entitled matter.

The foregoing document is true of my own knowledge except as to the matters which are therein stated on my information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 25, 1973, at Oakland, California.

/s/ William D. Spruance, Jr.
William D. Spruance, Jr.